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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,324	03/28/2004	George H. Gibbens III	6541-0403	2688
24936	7590	08/28/2006	EXAMINER	
RALPH D CHABOT 2310 E PONDEROSA DR SUITE 4 CAMARILLO, CA 93010			BACHMAN, LINDSEY MICHELE	
		ART UNIT		PAPER NUMBER
				3734

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/812,324	GIBBENS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Lindsey Bachman	3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 28 March 2004.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-4 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 23 September 2004 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following: it is the examiner's position that applicant has invoked 35 U.S.C. 112, sixth paragraph in claim 1 by reciting "means for providing." Therefore the examiner requires the applicant to clarify the record by amending the specification to "explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, or acts perform the function recited in the claim element." MPEP 2181(IV). Please note that the MPEP clearly states that "[e]ven if the disclosure implicitly sets forth the structure, materials, or acts corresponding to the means- (or step-) plus-function claim element in compliance with 35 U.S.C. 112, first and second paragraphs, the USPTO may still require the applicant to amend the specification pursuant to 37 CFR 1.75(d) and MPEP 608.01(o)...." (MPEP 2181(IV)). Appropriate correction is required.

### ***Claim Objections***

2. Claim 4 is objected to because of the following informalities: "blade" is spelled incorrectly on line 8. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Faraz, et al. (US Patent 5,766,186).**

5. Regarding Claim 1, Faraz'186 discloses a suturing device containing a curved needle (14) for advancing thread (15) along a path, a first plurality of one-way engaging devices (one side of blades jutting out behind element 16, like a cog) which engage the needle, an arcuate reversing housing (elements 22 and 24 – five elements total, as seen in Figure 2) concentrically positioned around needle (14) for changing the direction of the engaging device (16); the arcuate reversing housing (22, 24) also engages the engaging devices (blades jutting out behind element 16, like a cog); an arcuate driving means (20) which is concentric about the needle (14) and causes the engaging devices (blades behind element 16) to engage the needle (14); and a fixed way means (11) which provides a closed path for the arcuate driving means.

6. Regarding Claim 2, Faraz'186 discloses that the one way engaging devices are blades, having slots between them (like the insides of a cog), in which the slot is used to engage the needle (14).

7. Regarding Claim 3, Faraz'186 discloses a second plurality of one-way engaging devices (other side of blades jutting out behind element 16, like a cog) for engaging the needle (14) and a second reversing means (46) adapted to change a direction of the second plurality of one-way engaging devices.

8. Regarding Claim 4, Faraz'186 discloses a method of surgically suturing tissue that includes providing a blade with a slot (blades jutting out behind element 16, like a cog) in which the slots are used to engage a curved needle (14); pivoting a blade so that engagement between the interior surfaces of the slot (16) and the needle (14) occur; maintaining the engagement of the blade against the needle and driving the blade in a first direction (using element 28) so that the needle (14) is driven in a first direction (Figures 8a-8c), advancing the first end (the pointed tip) of needle (14) out of a housing (11) and accepting the first end of needle (14) into back into housing (11) near element 50 and coupling a thread (15) to the needle (column 2, lines 26-34) so that the thread is pulled behind the needle as the needle moves out of the housing and back into the housing (Figures 8a-8c).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Beurrier, et al. (US Patent 5,306,281); Field, et al. (US Patent 6,511,489).
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsey Bachman whose telephone number is 571-272-6208. The examiner can normally be reached on Monday to Thursday 7:30 am to 5 pm, and alternating Fridays.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Imb



MICHAEL J. HAYES  
SUPERVISORY PATENT EXAMINER